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Photo courtesy of Robert Stoddard



Photo courtesy of American Rivers



Members of the Commission

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Keeping our Waterways Clean

California's waterways are world renowned for their beauty and recreational opportunities. Let's keep it that way. When visiting California's waterways, remember to securely pack trash, fishing line, nets, and food to avoid polluting the water and endangering wildlife. By disposing of waste properly, you can help preserve our waterways and the ecosystems they support for future generations. For more information on how to minimize impacts caused by boating, visit http://www.dbw.ca.gov/?page_id=28767.



Photo courtesy of Visit California/Carol Highsmith

Further Information

For further information about the public's rights to access and use California's navigable waters, you can consult the Commission's *Legal Guide to the Public's Rights to Access and Use California's Navigable Waters* available at www.slc.ca.gov. Additionally, you can contact Commission staff for assistance at CSLC.PublicAccess@slc.ca.gov or (916) 574-1900.

Photo courtesy of CA Dept. of Water Resources

Public Access and Use of California's Navigable Waters



Sovereign (Public Trust) Lands

California carries forward a long-practiced tradition of preserving navigable waters for public use. Upon California's admission to

the Union as a sovereign state on September 9, 1850, the state became the owner of the beds of all navigable waters to hold in trust for the public (hence the names "Public Trust lands" or "sovereign lands"). The test for whether a waterway is navigable for state ownership is whether it was susceptible of use for *commercial navigation* at statehood. Navigability is determined on a segment-by-segment basis. One navigable segment of a waterway does not render the entire waterway navigable. A few examples of the over 100 state owned sovereign (Public Trust) waterways include:

- Smith River
- Lake Tahoe
- Pacific Coast
- Sacramento-San Joaquin Rivers Delta
- Klamath River
- Russian River
- Sacramento River
- Mono Lake
- Eel River
- Napa River
- American River
- Salt River
- Clear Lake
- San Francisco Bay
- San Joaquin River
- Colorado River

Note that this list excludes artificial waterbodies such as reservoirs created by dams.

The public's rights to access and use these lands and waters vary, depending on the waterbody.

- For *coastal and other tidally influenced waters*, the public has the right to access and use lands waterward of the ordinary high water mark as located by the mean high tide line except where there has been fill or artificial accretion.
- For *inland waters*, the public has the right to access and use lands and waters waterward of the ordinary high water mark.
- When water levels periodically recede or only seasonally inundated sovereign lands become dry, the public retains the right to use those lands to the ordinary high water mark.

Acceptable uses of sovereign (Public Trust) lands include but are not limited to:

- Navigation
- Scientific study
- Passive and water-related recreation, such as walking, hiking, wading, swimming, floating, tubing, and boating
- Commerce
- Preservation of lands in their natural state

For more information on California's common law Public Trust Doctrine, visit <http://www.slc.ca.gov/PublicTrust/PublicTrust.html>

Photo courtesy of Paul Cockrell

Restrictions

The public's rights to access and use navigable waters are not absolute. The public has no right to trespass over private property to access a navigable water. The responsibility of finding legal means of access remains with the public. Additionally, state and local governments may establish reasonable time, place, and manner restrictions to better ensure public safety or protect public and private property. For example, state or local restrictions may prohibit the public from fishing in unsafe locations. However, such restrictions may not totally prohibit an activity that is otherwise lawful.



Waters Navigable only by Oar or Small Craft

Many of California's current waterbodies were not susceptible of commercial navigation in 1850 due to rapids, channel width or depth, or other impediments. Nonetheless, and regardless of the underlying ownership of the land, the public holds a right of navigation over all state waters navigable by oar or motor-propelled small craft. This public property right is sometimes referred to as the public's navigational easement. The public's right of navigation applies even to temporary navigable waters. A few examples of waters navigable only by oar or small craft include:

- North, Middle, and South Forks of the American River
- Upper Tuolumne River
- Yolo Bypass (when flooded or submerged)
- Upper Kern River

Unlike sovereign (Public Trust) lands, acceptable uses of waters navigable only by oar or small craft are limited to:

- Navigation by oar or small craft
- The incidents of navigation, such as fishing and swimming

Finding Access

Resources are available to assist the public in finding legal access to navigable waters.

- The Department of Parks and Recreation has a tool to search for parks by featured activity, including swimming, boating, and surfing at <https://www.parks.ca.gov/ParkIndex/>
- The California Coastal Commission publishes the California Coastal Access Guide, available for purchase at <https://www.coastal.ca.gov/access/accessguide.html>
- Some local and regional governments have information on how and where to access navigable waters within their jurisdictions